

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**UNITED STATES OF AMERICA, ET AL.,  
PLAINTIFFS**

**CASE NO. C-102-107  
(SPIEGEL, J.)  
(HOGAN, M.J.)**

**VS.**

**BOARD OF HAMILTON COUNTY  
COMMISSIONERS, ET AL.,  
DEFENDANTS**

**REPORT AND RECOMMENDATION**

**RESOLUTION OF THE CLAIM OF PAULINE MEISENHELDER**

Ms. Meisenhelder lives at 363 Princess Court in Woodlawn, Ohio. Her basement flooded on January 4, 2004, at the same time that a Metropolitan Sewer District crew was working on her street. Although Ms. Meisenhelder had a homeowners policy with West American Insurance Company in effect, there was apparently no coverage for the water loss sustained. Ms. Weisenhelder did a good job of documenting her loss by taking multiple pictures depicting damage to baseboards, drywall, carpet and certain items of personal property. However, while she provided a list of damaged items, we have no way to quantify the loss from the list. She did, however, provide two repair statements from AA Plumbing, Inc., for a total of \$5,400.00. The repairs were made and the statements were paid in full by the homeowner, who seeks reimbursement under the Water In Basement Program. Metropolitan Sewer District did provide clean-up services at public expense.

The Claimant may have been misled by a comment made on one statement whereby AA Plumbing says "replace main sewer line from outside building to side walk." (See Statement dated January 5, 2004). Although the plumber made mention of the main sewer line, it is clear that he was referring to the lateral and that the problem was caused by tree roots blocking a lateral line to the main sewer pipe and not any insufficiency in the main sewer. The lateral line from the house to the street is, unfortunately, the homeowner's responsibility. The Claimant

might possibly have been misled by MSD's clean-up efforts into believing that it acknowledged responsibility for the loss. MSD's clean-up was inadvertent, but its loss inures to the benefit of the Claimant. The City's denial of Ms. Meisenhelder's claim was the appropriate response. The Claimant should contact her insurance carrier and obtain coverage so that a second unfortunate event such as this one will not result in an out-of-pocket loss.

June 26, 2007



Timothy S. Hogan  
United States Magistrate Judge

**NOTICE TO THE PARTIES REGARDING THE FILING  
OF OBJECTIONS TO THIS R&R**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten (10) days after being served with this Report and Recommendation. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen (13) days (excluding intervening Saturdays, Sundays, and legal holidays) in the event this Report is served by mail, and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation are based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten (10) days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6<sup>th</sup> Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).

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